

COPY

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**UNITED STATES BANKRUPTCY COURT
CENTRAL DISTRICT OF CALIFORNIA**

In re:

GEORGIANA LEW,

Debtor(s).

"FILED"

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CLERK, U.S. BANKRUPTCY COURT
CENTRAL DISTRICT OF CALIFORNIA

BY:

CASE NO.: **SA 03-14271-JB** ^{PLITY}
Chapter 7

NOTICE OF SALE OF ESTATE PROPERTY

Sale Date: **Hearing Date: December 18, 2003**

Time: **11:00 a.m.**

Location: **U.S. Bankruptcy Court, 411 E. Fourth Street, Santa Ana, California**

Type of Sale:

☒ Public

☐ Private

Last date to file objections:

December 4, 2003

Description of Property to be Sold: Real Property Located at: 16863 Bluewater Lane, Huntington Beach, California

Terms and Conditions of Sale: See the attached Hearing Notice

Proposed Sale Price: See the attached Hearing Notice

Overbid Procedure (If Any): See the attached Hearing Notice

If property is to be sold free and clear of liens or other interests, list date, time and location of hearing:

December 18, 2003 at 11:00 A.M., Courtroom 1368, U.S. Bankruptcy Court, 411 East Fourth Street, Santa Ana, California

Contact Person for Potential Bidders (include name, address, telephone, fax and/or e-mail address):

Lynda T. Bui, Esq.

Marshack Shulman Hodges & Bastian LLP

26632 Towne Centre, Suite 300, Foothill Ranch, CA 92610

Telephone: (949) 340-3400; Facsimile: (949) 340-3000

Date: November __, 2003

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Attorneys for John M. Wolfe
Chapter 7 Trustee

UNITED STATES BANKRUPTCY COURT
CENTRAL DISTRICT OF CALIFORNIA, SANTA ANA DIVISION

In re	Case No. SA 03-14271 JB
GEORGIANA LEW,	Chapter 7
Debtor.	NOTICE OF CHAPTER 7 TRUSTEE'S MOTION FOR ORDER (1) AUTHORIZING SALE OF REAL PROPERTY PURSUANT TO BANKRUPTCY CODE 363(b)(1); (2) APPROVING OF OVERBID PROCEDURES; AND (3) AUTHORIZING PAYMENT OF REAL ESTATE COMMISSION
	[Real Property Located At: 16863 Bluewater Lane, Huntington Beach, California]
	Date: December 18, 2003 Time: 11:00 a.m. Place: Courtroom 6D 411 E. Fourth Street Santa Ana, California

PLEASE TAKE NOTICE that on December 18, 2003, at 11:00 a.m. in Courtroom 6D of the above entitled Court located at 411 E. Fourth Street, Santa Ana, California, John M. Wolfe, Chapter 7 Trustee ("Trustee") for the bankruptcy estate of Georgiana Lew ("Debtor") will bring a Motion For Order Authorizing Sale Of Real Property Pursuant To Bankruptcy Code 363(B)(1); Approval Of Overbid Procedures; And Authorizing Payment Of Real Estate Commission ("Sale Motion").

BACKGROUND INFORMATION

The Debtor filed a voluntary petition for relief under Chapter 7 of the Bankruptcy Code on or about June 4, 2003 ("Petition Date").

John M. Wolfe is the duly appointed, qualified and acting Chapter 7 Trustee for the Debtor's bankruptcy estate.

Among the assets of the Debtor's bankruptcy estate is a residential property located at 16863

Bluewater Lane, Huntington Beach, California 92649 (the "Property"). The Debtor has listed the value of the Real Property at \$259,900.

According to the Debtor's Schedule A and D, there is currently a First Deed of Trust in the approximate amount of \$207,000.

The preliminary title report for the Property indicates that it is secured by a first Deed of Trust in favor of BNC Mortgage, Inc., a Delaware Corporation (now Fairbanks Capital Corp.) in the amount of \$207,920.00.

The other liens on the Property as listed by the Debtors include: tax liens in favor of State of California and the Internal Revenue Service in the amount of \$5,452.00 and a homeowners association assessment in the amount of \$2,000.00.

Pursuant to the Order Approving the Employment of Real Estate Agent, entered on October 21, 2003, Antoine Bacha of First Team Estate as estate's real estate has been employed and actively marketing the Property since.

Mr. Bacha has put said Property in the multiple listing service. The listing price for the Property is \$325,000.

Mr. Bacha intends to market the Property through advertisements in various newspapers including the Orange County Register and the Los Angeles Times.

The Trustee has received an offer through Mr. Bacha from Harry C. and Ann H. King ("Buyers") to purchase the Property for \$325,000, the listing price. The purchase price includes a deposit of \$32,500 (the "Deposit"). The Buyers have already tendered said deposit to the Trustee.

Although the terms of the sale are fully set forth in the Residential Purchase Agreement and the Addendum attached thereto, the essential terms can be summarized as follows: The sale price is \$325,000 ("Purchase Price").

The Buyers understand that the sale is "as is", thus the Trustee is not making any representation, warranties, either express or implied as to the Property's condition, uses (prior, present and future), or otherwise. Moreover, Buyers is expressly aware and fully informed that the Trustee is selling the Property in his capacity as Trustee for the bankruptcy estate with no liability to the Trustee personally. This sale is subject to overbid and expressly conditioned on approval of the United States Bankruptcy Court for the Central District of California, Santa Ana Division.

Escrow is scheduled to close within 30 days after the Bankruptcy Court Approves the sale of the Property.

The Trustee shall approve in writing all disbursements to be made from escrow on the sale of the Property. Escrow shall not be authorized to disburse any funds without the prior written approval of the Trustee.

If the Trustee is unable to complete escrow because of unknown defects in the title, or because the liens and encumbrances exceed the amount known to the Trustee, or by being divested of title by the Bankruptcy Court, or because the income tax consequences of the sale are excessive, the Buyer's sole damages shall be limited to the refunds of any Deposit less escrow charges.

The proposed sale has been brought in good faith and has been negotiated on an "arms length" basis. The negotiations with the Buyers have resulted in an offer to sell the Property that will have substantial benefit. Accordingly, the sale is in good faith and should be approved. The Trustee shall request such a finding pursuant to Bankruptcy Code Section 363(m) at the hearing on this Sale Motion. Through escrow on the sale of the Property, and subject to Bankruptcy Court approval, the Trustee shall pay compensation for real estate broker in a total amount not to exceed six percent (6%) of the gross selling price.

The sale contemplated by the Trustee will be subject to the following overbid procedures:

Potential overbidders must bid an initial amount of at least Five Thousand Dollars (\$5,000.00) over the Purchase Price offered by the Buyers. Minimum bid increments thereafter shall also be Five Thousand Dollars (\$5,000.00).

Overbids must be in writing and be received by the Trustee's counsel, Marshack Shulman Hodges & Bastian LLP to the attention of Lynda T. Bui by no three (3) days prior to the hearing on the motion to the Bankruptcy Court seeking approval of this Agreement.

Overbids must be accompanied by certified funds in an amount equal to ten percent (10%) of the overbid purchase price.

The overbidder must seek to acquire the Property on terms and conditions not less favorable to the Debtor's bankruptcy estate than the terms and conditions to which the Buyers have agreed to purchase the Property as set forth in **Exhibit "1"** and any competing bidder must be obligated to perform within the same time that the Buyers would be obligated to perform under the Residential Purchase Agreement and its attachments.

If overbids are received, the final bidding round shall be held concurrent with the Bankruptcy Court hearing on the Trustee's motion for a Bankruptcy Court approving this sale Motion in order to allow all potential bidders the opportunity to overbid and purchase the Property.

The overbidder's deposit shall be refunded within five (5) days of the final bidding round in the event that said overbidder is outbid.

The Trustee anticipates that the sale will generate net funds for the Bankruptcy Estate as follows:

Sale Price	\$ 325,000.00
Cost of Sale (8%)	\$ 26,000.00
Fairbanks Capital Corp.	\$ 207,000.00
Taxes and Association Fees	\$ 7,452.00
Exemption	\$ 50,000.00
Subtotal	\$ 290,452.00
Net Equity to the Estate	\$ 34,548.00

Because this sale is subject to overbids, the estimated net to the Estate will increase if the sale is confirmed to an overbidder.

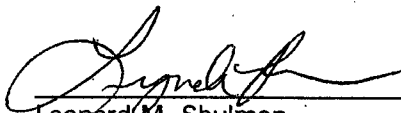
Through this Sale Motion, as provided in the Listing Agreement, the Trustee seeks authorization to pay a real estate broker commission of three percent (3%) to First Team Estates, as the Seller's agent, and an additional three percent (3%) to the Buyer's agent.

Requests for a copy of the Sale Motion should be in writing and directed to Lynda T. Bui of Marshack Shulman Hodges & Bastian LLP at the address indicated above.

PLEASE TAKE FURTHER NOTICE, that any response, opposition or joinder as to the proposed Sale Motion must be in the form as required by Local Bankruptcy Rule 9013-1(a)(7) and filed with the Clerk of the above-entitled Court no later than fourteen (14) days before the date of the above-referenced hearing and a copy served on Marshack Shulman Hodges & Bastian LLP to the attention of Lynda T. Bui at the address indicated above and the Office of the United States Trustee, Ronald Reagan Federal Building and United States Courthouse, 411 W. Fourth Street, Suite 9041, Santa Ana, California 92701-8000. Failure to timely respond may be deemed as acceptance of the proposed Sale Motion. SEE LOCAL BANKRUPTCY RULES 9013-1(a)(7) AND 9013-1(a)(11).

Dated: November 6, 2003

MARSHACK SHULMAN HODGES & BASTIAN LLP



Leonard M. Shulman

Lynda T. Bui

Attorneys for John M. Wofle, Chapter 7 Trustee for the
Bankruptcy Estate of Georgiana Lew

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF ORANGE

I am employed in the City of Foothill Ranch, County of Orange, State of California. I am over the age of 18 years and not a party to the within action. My business address is 26632 Towne Centre, Suite 300, Foothill Ranch, California 92610.

On November 7, 2003, I served the documents named below on the parties as follows:

DOCUMENT(S) SERVED: NOTICE OF CHAPTER 7 TRUSTEE'S MOTION FOR ORDER (1) AUTHORIZING SALE OF REAL PROPERTY PURSUANT TO BANKRUPTCY CODE 363(b)(1); (2) APPROVING OF OVERBID PROCEDURES; AND (3) AUTHORIZING PAYMENT OF REAL ESTATE COMMISSION

SERVED UPON: THE PARTIES AS REQUIRED BY LOCAL BANKRUPTCY RULE 2014-1 AS SHOWN ON THE ATTACHED LIST

X (BY MAIL) I caused each such envelope, with postage thereon fully prepaid, to be placed in the United States mail at Foothill Ranch, California. I am readily familiar with the practice of Marshack Shulman Hodges & Bastian LLP for collection and processing of correspondence for mailing, said practice being that in the ordinary course of business, mail is deposited in the United States Postal Service the same day as it is placed for collection. I am aware that on motion of party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

(BY FACSIMILE) Pursuant to C.R.C. 2009(i), I either caused, or had someone cause, the transmitting machine to properly transmit the attached documents to the facsimile numbers shown on the service list. The above-referenced document was transmitted by facsimile transmission and the transmission was reported as completed and without error.

(BY FEDERAL EXPRESS OR AIRBORNE EXPRESS) I am readily familiar with the practice of Marshack Shulman Hodges & Bastian LLP for collection and processing of documents for overnight delivery and know that the document(s) described herein will be deposited in a box or other facility regularly maintained by such overnight delivery company for overnight delivery.

(BY PERSONAL SERVICE) I delivered to an authorized courier or driver authorized by ASAP Corporate Service to receive documents to be delivered on the same date. A proof of service signed by the authorized courier will be filed forthwith.

(STATE) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

X (FEDERAL) I declare that I am employed in the office of a member of the bar of this court, at whose direction this service was made.

Executed on November 7, 2003, at Foothill Ranch, California.



Steven P. Swartzel

SERVICE LIST

UNITED STATES TRUSTEE
411 W FOURTH ST., SUITE 9041
SANTA ANA, CA 92701-4593

JOHN M. WOLFE
2603 MAIN STREET SUITE 810
IRVINE, CA 92614

GEORGIANA LEW
16863 BLUEWATER LANE
HUNTINGTON BEACH, CA 92649

CARL F. AGREN
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IRVINE, CA 92612

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CITY OF INDUSTRY, CA 91716-9005

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O O ACADEMY COLLECTION
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GULF STATE CREDIT LLC
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LAGUNA NIGUEL, CA 92607-0213

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LAGUNA BEACH, CA 92652-4200

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12 CIVIC CENTER PLAZA
SANTA ANA, CA 92701

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TUSTIN, CA 92781

SPRINT PCS
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CITY OF INDUSTRY, CA 91716-9357

THE CREDIT STORE
PO BOX 5217
SIOUX FALLS, SD 57117

UNILAB
C A GESS AND ASSOCIATES PO BOX 3437
CANOGA PARK, CA 91396

VERIZON WIRELESS
C O RISK MANAGEMENT
ALTERNATIVES PO BOX 105408
ATLANTA, GA 30348

VICTORIA SECRET
C A ALLIANCE RECOVERY
MANAGEMENT PO BOX 659407
SAN ANTONIO, TX 78265-9407

VICTORIA SECRET
PO BOX 659562
SAN ANTONIO, TX 78265-9562

VOLKSWAGEN CREDIT
PO BOX 894756
LOS ANGELES, CA 90189-4756

WESTCLIFF MEDICAL LAB
PO BOX 128
GARDEN GROVE, CA 92842-0128

VW CREDIT INC
HILARY B BONIAL PO BOX 829009
DALLAS, TX 75382-9009

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DEPARTMENT
BANKRUPTCY GROUP MIC 92E P.O. BOX
826880
SACRAMENTO, CA 94280-0001

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